



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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March 31, 1992

Mr. A. John Davis
Pruitt, Gushee & Bachtell Law Offices
Beneficial Life Tower, Suite 1850
Salt Lake City, Utah 84111

John
Dear Mr. Davis:

Re: Parley's Canyon Aggregate Company (PCAC), Parleys Canyon Quarry, D/035/003,
Salt Lake County, Utah

The Division is in receipt of your March 17, 1992, letter representing the interests of PCAC. Your concern and exception to the Division's application of the Utah Mined Land Reclamation Act (Act) has been noted. In response, the Division provides the following:

The Minerals Regulatory Program and Minerals Rules (Rules) were developed pursuant to the Act to ensure reclamation of lands disturbed by mining activity. Any operator within the State who is "mining" a material, which is not exempt, is subject to the Act and the Rules. The end use of the product being "mined" is not subject to the Act or the Rules. Thus, if the activity is "mining" and the deposit being "mined" is *not* unconsolidated sand and gravel or rock aggregate then the operation is subject to the Act and Rules.

There are two key questions to be answered in order to reach a decision regarding PCAC: (1) What type of operation constitutes "mining"? and (2) What is "rock aggregate"?

In defining the term "mining", the terms *mining operation* and *mineral deposit* also come into play. According to the definitions in the Act, a *mining operation*, "means those activities conducted on the surface of the land for the exploration for, development of, or extraction of a mineral deposit". Therefore, an operation which is exploring, developing or extracting a mineral deposit is conducting "mining". The Act defines *deposit* or *mineral deposit* as "an accumulation of mineral matter in the form of consolidated rock, unconsolidated material, solutions, ... from which any product useful to man may be produced, extracted, or obtained ...". The Act later exempts sand, gravel and rock aggregate from regulation. These exempted items would otherwise fit under the "unconsolidated material" portion of the *mineral deposit* definition.

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As you stated in your letter, "rock aggregate" is not defined in the Act or Rules. For regulatory and interpretive purposes, the Division has defined "rock aggregate" as *"unconsolidated material such as sand, gravel, slag, or stone used for mixing with a cementing or bituminous material to form concrete, mortar, or plaster; or used alone as a construction material such as railroad ballast or graded fill. It does not include consolidated rock units mined and processed to obtain rock aggregate material."*

According to these definitions, PCAC's proposed "mining operation" will extract/remove a **"mineral deposit"**, and assuming it involves consolidated rock, it would therefore be subject to the Act and the Minerals Rules. On the basis of this conclusion, PCAC will need to file a Notice of Intention to Conduct Mining with the Division. This notice will need to be reviewed by the Division prior to the initiation of any mining activity.

An appeal of this position may be sought in accordance with the Administrative Procedures rules, R647-5-102 et seq. wherein an informal hearing may be conducted before the Division Director. Please contact Jan Brown, Administrative Secretary to the Director and Board of Oil, Gas & Mining, for further information in this regard. If you have any further questions in this matter please contact me or Wayne Hedberg of the Minerals Staff.

Sincerely,



Lowell P. Braxton
Associate Director, Mining

jb

cc: Warren Reynolds, SL County
Dianne Nielson, DOGM
Tom Mitchell, AAG
Wayne Hedberg, DOGM

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